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PART II.

Notifications by Govt. of India, Resident, Chief Court, &c.

IN THE CHIEF COURT OF MYSORE.

CIVIL SIDE.

Notification dated 25th January 1905.

It is hereby notified that the following Rules for the service and execution of processes issued by the Civil Courts in the Mysore State, and the fees chargeable therefor, framed by the Chief Court under the provisions of Section 29 of the Mysore Court Fees Regulation, in supersession of those contained in the Chief Commissioner's Notifications Nos. 261 and 262, dated 10th January 1880, and the Chief Court's Circular letter No. 549-4, dated 5th July 1882, and Notification dated 19th January 1898, have received the sanction of Government, and shall come into force from the 1st February 1905.

I. There shall be one General Establishment of Amins and Peons for the execution and service of processes issued by all the Civil Courts at each of the following stations and at such other places as the Chief Court may hereafter direct:—Bangalore, Mysore, Shimoga.

Such establishment shall be under the immediate direction of a Central Nazir and the control of the District Judge.

II. At all other stations the Process Establishment shall be under the immediate direction of a Deputy Nazir, who shall be under the control of the Sub-Judge or the Munsiff having jurisdiction at such station.

III. (*a*) There shall be two classes of Central Nazirs, and their pay shall be—

	Rs.
1st Class	50 a month
2nd „	40 „

provided that no Central Nazir shall be placed in the 1st class unless the Process Establishment to be supervised by him consists of 70 peons and 20 amins;

(*b*) There shall be two classes of Deputy Nazirs, and their pay shall be—

	Rs.
1st Class	25 a month
2nd „	20 „

Deputy Nazirs of the 1st class shall be provided for the Courts of Sub-Judges and for Munsiffs' Courts graded as 1st class, and Deputy Nazirs of the 2nd class for the Munsiffs' Courts graded as 2nd and 3rd classes.

(*c*) There shall be two classes of Amins, and their pay shall be—

	Rs.
1st Class	16 a month
2nd „	

The proportion of Amins in the higher grade shall not exceed one to two in the lower grade.

(*d*) There shall be two classes of Peons, and their pay shall be—

1st Class	...	...	...	...	...	Rs. 8 a month
2nd „	...	...	...	...	...	„ 7 „

The proportion of Peons in the higher grade shall not exceed one to three in the lower grade.

The Central Nazir and his Process Establishment shall be appointed by the District Judge. The appointment of Deputy Nazir and his establishment shall be made by the Sub-Judge or the Munsiff to whose Court they are attached. All appointments shall be subject to the provisions of Section 21 of the Civil Courts Regulation No. 1 of 1883.

IV. Each Central Nazir must furnish security in a sum of Rs. 500, and each Deputy Nazir in a sum of Rs. 250. Each Amin of the 1st class must furnish security in the sum of Rs. 120 and each Amin of the 2nd class in the sum of Rs. 100. The security for Peons of both classes shall be Rs. 50.

V. The security to be furnished by Nazirs and Amins shall either be by bond with deposit of title-deeds of immovable property, or deposit of cash or Government Promissory Notes; and the security to be furnished by Peons shall be by bond with two sureties, or by deposit of cash, which should be invested in the District Savings Bank in the name of the depositor.

VI. The "proper officer" to whom processes shall be transmitted for service under Section 72 of the Code of Civil Procedure, 1882, shall be—

(*a*) *The Central Nazir*, in respect of all processes issued by any Court for service within the jurisdiction of a Munsiff located at such station;

(*b*) *The Deputy Nazir*, at a station where there is no Central Nazir, in respect of processes issued by any Court for service within the jurisdiction of the Court or Courts at that station.

VII. The processes of each Court shall be numbered consecutively, as soon as all batta charges have been paid, and shall be entered in a register in the Form A annexed hereto and issued for service in the order of receipt, precedence however being given to urgent processes issued as per Rule XIX and Note 3 to Rule XXV.

The amount of batta to be paid must be notified on each process sent for service, but shall be retained with the Court Nazir.

VIII. At stations where there is a Central Nazir, at 3 P.M. daily, the chief ministerial officer of each Court shall sign the Register A, and transmit it to the Central Nazir, together with the processes to be served or executed by him, which have been prepared up to that hour. Such processes prepared after 3 P.M. shall be sent to the Nazir not later than 11-30 the following morning, together with the register signed as above.

After verifying the entries relating to himself, the Central Nazir shall return the register to the Court concerned with his counter-signature.

This rule shall also apply to processes to be served or executed by the Deputy Nazirs.

IX. One hour before the Post time for each outlying Sub-Judge's or Munsiff's station, the chief ministerial officer of each superior Court shall have a list prepared in the Form A of all processes to be served or executed within the jurisdiction of such outlying Court, and such list shall be forthwith sent by Post on Mysore Government Service to the Central or Deputy Nazir of that station, together with all such processes.

X. On receiving any batch of processes, the Central or Deputy Nazir, as the case may be, shall consecutively number and enter them in a register, which shall be kept by himself or under his superintendence in the Form B annexed hereto.

XI. He shall thereupon arrange for the distribution of the processes, and, after the necessary entries have been made in the Roster (Form C hereto annexed), shall deliver them to the several process-servers. As far as possible, all processes other than warrants of arrest, for persons residing in the same neighbourhood shall be served by one process-server and not by several, whether issued by the same or by different Courts.

Every Central or Deputy Nazir shall be held directly responsible for the proper service and return in due time of the processes.

The process-servers should maintain a Register in Form D.

XII. Every day, at such hours as the Munsiff may fix, having regard (when necessary) to the hours at which the Post closes, the Central or Deputy Nazir shall enter in a despatch book or list the processes to be returned to each Court giving them their original Court numbers, and shall transmit them to the chief ministerial officer, who shall sign and return the despatch book or list.

XIII. It shall be the duty of the chief ministerial officer to have the processes returned and the batta amounts disbursed hereon entered in the appropriate columns of his Register A.

and to bring to the notice of the presiding Judge, any unusual delay. Where such Judge is not the District Judge having jurisdiction over the Nazarath concerned he shall report such delay to such District Judge in the absence of satisfactory explanation.

XIV. At the close of each day, every Central and Deputy Nazir shall enter in the Register B the number of processes distributed during the day and the number of peons remaining unemployed after the distribution.

XV. The return of service shall ordinarily be verified by affidavit, and, under Section 197 (*b*) of the Code of Civil Procedure, all Nazirs and Deputy Nazirs are hereby empowered to administer the oath to any process-server. Such affidavit which should state the place, manner and date of service may be read at the hearing and used as proof of service.

XVI. When any person has been arrested, or movable property seized, by a process-server of an outlying Court under a warrant issued by a superior Court, the process-server shall forthwith bring such person or property to the station of such Court and deliver him or it to the Central or Deputy Nazir, as the case may be, provided that this rule shall not apply to property not required to be brought to the Court-house.

Such Central or Deputy Nazir shall immediately give the process-server a receipt and send him back to his own Court, and shall produce such person or property before the Court which issued the process.

When money shall have been recovered upon any such process, it shall be received by the outlying Court, and duly transmitted, together with the process, to the Court concerned: or credited to such Court's Batta Account, sending immediate notice of the same that the Court concerned may pay the judgment-creditor out of the batta accumulations.

XVII. A permanent advance of Rs. 500 will be made to each Central and Rs. 200 to each Deputy Nazir for the batta of witnesses, &c. The amount of batta notified on each process sent to the Nazarath for service will be paid out of it unless in special instances moneys are sent along with process, in which case the amount should be credited in Register F as soon as received.

The Chief Court may, at its discretion, increase or reduce the permanent advance of any particular Central or Deputy Nazir.

All moneys received, disbursed or remitted by the Central or Deputy Nazir shall be at once entered in his cash book F (Form annexed) of Nazir's account current of Permanent Advance.

XVIII. On or before the 6th of each month or whenever a sum of Rs. 50 or more is due by any Court, the Central or the Deputy Nazir (as the case may be) shall send to the Court concerned a bill in Form E hereto annexed showing the account between them.

The Head Ministerial officer of each Court shall on receipt of the bill carefully check it with reference to his A Register, object to items not admissible in the remark column and prepare an extract of such items with details. He shall total the remaining items and pass the same for payment and send the bill together with the extract of objections to the Court Nazir. The latter shall, after debiting the passed items individually in his cash Register No. X, forward the amount together with the passed bill and the extract to the Central or Deputy Nazir who will endorse receipt of money on the bill and forward it to the Court Nazir retaining the extract for further action.

The amount due to each Central or Deputy Nazir of an outlying station must be remitted through the Government Treasury, if there is a treasury at the outlying station, and if not, by a Postal Money Order, the cost of which may be charged in the Contingent Bill.

XIX. The presiding Judge of any Court may, for any sufficient reason, at any hour of the day, transmit a process for emergent execution, and it shall be the duty of the Central or Deputy Nazir (as the case may be), on receiving such process signed by the Judge, to make immediate arrangements for its execution.

In a case of very special urgency, the presiding Judge may deliver any such process to one of the process-servers in attendance on his Court for immediate service or execution.

XX. The presiding Judge of any superior Court may direct, on the application of the party applying for any particular process which would ordinarily be sent for service to an outlying Court, that it be served or executed by a special process-server from head-quarters: provided that the pay of such process-server, at the rate of 4 annas a day for a peon or 8 annas for an amin, for the time he is likely to be employed on such duty, be paid in advance; and the Judge may, for any sufficient reason, direct that such extra charge be costs of the suit or proceeding.

XXI. Except for very special reasons, which must be recorded in writing, no Court shall direct, under Section 349, that a judgment-debtor be left in the custody of a peon, unless a second peon is deputed to assist him and the pay of both, at 4 annas a day for each up to the time fixed for the adjourned hearing, be paid in advance.

Payments under this and the preceding rule shall be made in Process Service stamps.

XXII. Unless the Chief Court shall otherwise direct, upon due cause being shown, the number of amins and peons to be employed under any Nazir or Deputy Nazir shall be sufficient, and no more than sufficient, for the execution of not less than 150 processes a year by each amin and not less than 400 processes a year by each peon: provided that three peons for each Court shall be told off in rotation for ten days at a time to attend the Court to help to keep order and guard the Court-house and to be available for emergent processes under Rule XIX.

XXIII. In calculating the number of processes, if more than one of the same description have been issued on behalf of the same party at the same time in the same suit or proceeding and executed in the same town or village, the first only shall be reckoned as a full process, and each subsequent set of three or part thereof shall count as but one process, whether executed by one or more peons. Three processes will be counted for each emergent process and one for each day that a peon is in charge of a judgment-debtor or engaged on any special duty.

XXIV. At the end of each month every Central and Deputy Nazir shall prepare a statement showing the total number of processes calculated as above executed by each amin or process peon during the month, noting also the number of processes declared by the several Courts as emergent and shall submit the same to the District Judge. The District Judge shall forward the same in original to the Chief Court for perusal and return.

The District Judge shall reduce the number of peons in the Central Nazarath, or any outlying Court, whenever the average number of processes for each man (exclusive of those allowed under Rule XXIII to be in attendance in the Courts) falls short of the prescribed minimum by more than ten per centum, provided that if sufficient cause appears for lowering the minimum, he may report the matter for the orders of the Chief Court.

District Judges will forward to the Chief Court a monthly return of receipts and disbursements on account of the service of processes showing the number of processes arrived at in the manner laid down in Rule XXIII, separately of amins and peons excluding only those on which no action has been taken by the peon or amin, owing to the petition having been compromised or withdrawn or for any other reason, after the process has been issued. The processes issued to amins will comprise all processes for attachment or sale, or delivery of possession of property, movable or immovable and certain warrants of arrest. Those of peons will include all summonses, notices, written orders and ordinary warrants of arrest and the simpler forms of injunction and proclamation.

XXV. The fees chargeable for serving and executing process issued by the Civil Court shall be:—

		Rs.	a.	p.
1.	Summons to Defendant	0	8	0
	And for every additional Defendant if applied for at the same time, and if Defendant resides in the same neighbourhood ...	0	4	0
2.	Summons to a witness	0	8	0
	And for every additional Witness, if applied for at the same time, and if the Witness resides in the same neighbourhood ...	0	4	0
3.	Warrant of Arrest	1	0	0
4.	Proclamation of Attachment or Sale	0	8	0
5.	Warrant of Attachment of movable or immovable property ...	1	0	0
6.	Warrant of sale of movable or immovable	1	8	0
7.	Warrant of delivery of possession of property, movable or immovable if no attachment has taken place.	The fee for attachment of said property.		
	If the attachment has taken place—			
	For movable property	0	8	0
	For immovable property	1	0	0
8.	Injunction, Order or Notice not otherwise provided for	0	8	0

N. B.—(1) When it is found necessary to employ more than one amin or peon (as for instance where property is situated in different places) double fees are to be charged.

(2) The fee chargeable for warrants of sale is in addition to actual charges of advertisements as well as the commission, if any, payable in the case of sales conducted through special agency under the orders of the Court.

(3) For processes ordered to be executed as emergent on the application of parties the fee will be the ordinary fee and half as much again.

V. A. RAJARATNA MUDALIAR,
Registrar.

PROCESS REGISTER A.

(To be kept by the Chief Ministerial Officer of each Court).

Court.

General number of each process	Number of suit or proceeding and year	Nature of process	Number of			Amount of witnesses batta, etc. entered on process	Date of delivery or despatch	Nazarath to which despatched and acknowledgment	Date of return of process	Number as per Register B of the Nazir	Amount due to the Deputy or Central Nazir	Date and number of bill by which adjusted	Remarks
			Original	Copies	Copies of plaints								
1	2	3	4	5	6	7	8	9	10	11	12	13	14
						Rs. a.					Rs. a.		

PROCESS REGISTIR B.

(Register of Processes received from and rourned to the several Courts).

Nazarath Statio: :—

General number of each Process	Court number of Process in Register A.	Suit or Proceeding and year.	Court by which sent	Nature of Process	Amount of Process Fee levied	Witnesses batta, etc. entered on Process	Date of issue	Name of Process server or Amin	Date of return of Process	Date of return of case to Court	Amount of batta, etc. actually expended	By what bill adjusted	Amount of unexpended batta, etc	Date of recovery from Process server	Number of Processes calculated under Rule XXIII	Remarks.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
					Rs. a.	Rs. a.					Rs. a.		Rs. a.			

REGISTER C.

Name..... Designation..... No.....

General number as per Register B	Number of suit or proceeding	Nature of Process	Name of village	Distance in miles	Despatched	Returnable	Returned	Batta for witnesses		Signature of Process-server or Amin	Amount actually spent		Unexpended batta refunded		Nazir's initials and date	Number of processes calculated under Rule 23	Manner of service	Explanation of Process-server for delay, if any
					190	190	190	Rs.	a.		Rs.	a.	Rs.	a.				
1	2	3	4	5	6	7	8	9		10	11		12		13	14	15	16

REGISTER D.

Process-server or Amin's Book.

Name Designation.

Number in Process Register B	Nature of process including name of Court	Village and names of witnesses, etc	Date		Amount of batta received	Amount paid to witnesses and date	Unexpended amount returned to Nazir	Date and signature of Nazir	Remarks
			Returnable	Returned					
1	2	3	4	5	6	7	8	9	10

[Under Rule XVIII.]

Form E

No. of Bill.

Amount of Process Fees advanced by ..... Nazir of

To

The Head Ministerial Officer of ..... Court.

General number of processes in Register B	General number of processes in Register A	Number of suit or proceeding	Nature of process	Amount due		Remarks
1	2	3	4	5		6
				Rs.	a.	

REGISTER F.

Nazir's Account Current of Permanent Advance.

Station.

Serial number	Number in Process Register B	Nature of expenditure or receipt	Receipt	Expenditure	Amount on hand	Remarks
1	2	3	4	5	6	7

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VII A.

Nazir's Register of Immoveable Property attached or sold.

	Number of Suit and Execution Petition	Date of attachment	Description of property and where situated	Orders affecting it prior to sale or release	Whether sold or released and when	Amount of sale proceeds	Remarks
	1	2	3	4	5	6	7

NOTE.—1. The Registers of moveable and immoveable property shall be kept by every Central and Deputy Nazir.

2. The Registers shall be opened by specifying all properties standing attached on the said date.

3. The Registers shall be examined from time to time by the Judge or Munsiff to whom the Nazir is subordinate, and the fact of such examination having been made together with such instructions or remarks as may appear necessary, shall be entered by the Judge or Munsiff in his own handwriting.

4. When furniture, utensils, cloths or any other articles which admit of ticketing are kept in the Court, the serial number given in the Register should be written on a ticket and attached to the article.

VII B.

Nazir's Register of Moveables attached.

Number of Suit and Execution Petition	Date of attachment	Serial number	Description of property	Person from whom attached	Where kept and on what conditions	Orders affecting it prior to sale or release	Whether sold or released and when	Amount of sale proceeds	Remarks
1	2	3	4	5	6	7	8	9	10

Register of Curator's attached moveables and live-stock received and restored by him.

Serial No.	Court	Number of Suit	Number of Petition	Description of properties received	Date of receipt	Date of sale or release and Amin's signature	Amount of fee advanced	Full amount of fee due and paid	Cost of carriage	Remarks
							Rs. a. p.	Rs. a. p.	Rs. a. p.	

Statement showing the Receipts and Disbursements on account of the Service of Processes and work done by Amins and Peons in each Court in the ..... Division for the month of ..... 19 .

Court	Stamp fees collected on processes including money remittances from other Courts	Postage refunds and other miscellaneous charges	Cost of process service establishment deducting fines, stoppages, etc.	Total of columns 3 and 4	Number of processes served or executed by—		Processes of a nature to be entrusted to Amins only	Other processes	Number on the roll				Average number of processes executed during the month by each		Amount of permanent advance		Remarks on a comparison of columns 2 and 5
									Amins		Peons						
					Amins	Peons			1st grade	2nd grade	1st grade	2nd grade	Amin	Peon	On hand	Advanced	
1	2	3	4	5	6		7	8	9				10		11		12

Instructions :—
Columns 6, 7 and 8—The special mode of computation prescribed in Rule XXIII should be applied in the case of these columns.

..... Court,
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To

The Registrar of the Chief Court of Mysore, Bangalore.

District Judge.